

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 6896**

**BILL NUMBER:** SB 224

**NOTE PREPARED:** Dec 31, 2009

**BILL AMENDED:**

**SUBJECT:** Electronic Dissemination of Indecent Material.

**FIRST AUTHOR:** Sen. Merritt

**BILL STATUS:** As Introduced

**FIRST SPONSOR:**

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** *Delinquent Act:* The bill provides that a child commits a delinquent act if the child creates, transmits, or possesses a photograph, video, or other material that shows a minor in a state of nudity.

*Defense:* It creates a defense to child exploitation, possession of child pornography, and dissemination of material harmful to minors if the defendant is a child, the offense constitutes a delinquent act, and: (1) the photograph, video, or other material does not show a child less than 13 years of age; or (2) the defendant did not knowingly or intentionally transmit the photograph, video, or other material to ten or more persons.

**Effective Date:** July 1, 2010.

**Explanation of State Expenditures:** *Delinquent Act:* There are no data available to indicate how many juveniles may be found to have committed a delinquent act and will receive a dispositional decree to receive outpatient treatment or attend an educational program. The Department of Child Services (DCS) pays for services in juvenile delinquency cases.

*Defense:* Any effects of the bill on admissions to state correctional facilities are expected to be minimal since a review of admissions records to state juvenile institutions indicated that no one had been admitted for one of these offenses. By providing an additional defense to child exploitation, a Class C felony; child pornography, a Class D felony; and dissemination or display to minors of material that is harmful to minors or obscene, a Class D felony, the bill could reduce the number of juveniles convicted of these offenses.

**Background:** Depending upon mitigating and aggravating circumstances, a Class C felony is punishable by

a prison term ranging from 2 to 8 years and a Class D felony is punishable by a prison term ranging from 6 months to 3 years or reduction to Class A misdemeanor. The estimated average cost of housing a juvenile in a state juvenile facility was \$75,050 in FY 2009. The average length of stay in Department of Correction (DOC) facilities for all adult Class C felony offenders is approximately two years and for all adult Class D felony offenders is approximately ten months.

Child exploitation and possession of child pornography are offenses that require registration on the sex offender registry. However, juvenile offenders are not automatically registered unless required by the court. Any effect on the number of offenders required to register on the sex offender registry is expected to be minimal.

**Explanation of State Revenues:** *Defense:* If fines for this offense are not imposed and collected, revenue to both the Common School Fund and the state General Fund would decrease. The maximum fine for a Class C or Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If a guilty verdict is not entered and the case was filed in a circuit, superior, or county court, a criminal costs fee would not be collected and deposited in the state General Fund and other fees such as the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) would not be collected and deposited into the state General Fund.

**Explanation of Local Expenditures:** *Defense:* Defendants would still be detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

**Explanation of Local Revenues:** *Defense:* If a guilty verdict is not entered, local governments would not receive revenue from the following sources: The county general fund would not receive the 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record would not receive the 3% of the criminal costs fee. In addition, several additional fees, collected at the discretion of the judge and depending upon the particular type of criminal case, may not be received.

**State Agencies Affected:** DOC.

**Local Agencies Affected:** Trial courts, local law enforcement

**Information Sources:** Indiana Sheriffs' Association; DOC.

**Fiscal Analyst:** Karen Firestone, 317-234-2106